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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEYMAN PAKDEL and SIMA CHEGINI,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO
a Chartered California City and County; SAN
FRANCISCO BOARD OF SUPERVISORS,
an elected body of the City and County of San
Francisco; SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS, a
department of the City and County of San
Francisco; and DOES 1-25 inclusive,

Defendants.

Case No. 3:17-cv-03638-RS

[PROPOSED] ORDER

Hearing Date: July 21, 2022
Hearing Judge: Richard Seeborg
Time: 1:30 p.m.
Place: Courtroom No. 3
Attendance by Zoom

Trial Date: TBD

On July 21, 2022, the Court heard Defendant City and County of San Francisco's ("San Francisco") Motion to Dismiss the First Amended Complaint for Violation of Federal Civil Rights, etc. ("First Amended Complaint") in this case, the Honorable Richard Seeborg presiding. Deputy City Attorney Kristen A. Jensen appeared for the moving party, Defendant San Francisco; _____ appeared for Plaintiffs Peyman Pakdel and Sima Chegini ("Plaintiffs").

1 San Francisco's motion was brought under Federal Rule of Civil Procedure Rule 12(b)(6), and
2 asserts that Plaintiffs' First Amended Complaint fails to state facts sufficient to support a claim for
3 relief under any theory.

4 Having considered the motion and supporting documents, all opposition papers, the complete
5 files and records of this action, and such other evidence or argument presented, the Court hereby finds
6 and orders as follows:

7 1. San Francisco's Motion is GRANTED IN FULL. The First Amended Complaint fails
8 to state facts sufficient to allege that San Francisco effected an unconstitutional taking of Plaintiffs'
9 property, or seized an interest in Plaintiffs' property, when San Francisco granted Plaintiffs the right to
10 convert their tenancy-in-common property interest into a condominium ownership interest under San
11 Francisco's Expedited Conversion Program. The First Amended Complaint fails to set forth facts
12 establishing either a physical taking, a regulatory taking, or an unlawful seizure. Moreover, plaintiffs
13 were not compelled by the government to convert their TIC into condominiums and, once they
14 voluntarily chose to do so, they accepted a valuable property right from the City in exchange for
15 offering a lifetime lease to their existing tenant. As a result, Plaintiffs fail to state a claim for an
16 unconstitutional condition.

17 Because Plaintiffs had invited their tenant to lease the property prior to the City's imposition of
18 the lifetime lease requirement, Plaintiffs cannot state a claim for a physical taking. *Yee v. City of*
19 *Escondido*, 503 U.S. 519 (1992); *F.C.C. v. Florida Power Corp.*, 480 U.S. 245 (1987). And, because
20 Plaintiffs were aware that the Expedited Conversion Program required them to provide a lifetime lease
21 to their tenant at the time they applied for the valuable property interest they sought, and that San
22 Francisco's Subdivision Code and other state and local law regulated the landlord-tenant relationship,
23 Plaintiffs have not stated a reasonable investment-backed expectation that converting their property
24 from a tenancy-in-common to an individually alienable condominium would not result in further
25 regulation of their landlord-tenant obligations. *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984);
26 *Guggenheim v. City of Goleta*, 638 F.3d 1111 (9th Cir. 2010). Similarly, The nature of this exchange is
27 not a "seizure" for purposes of the Fourth Amendment. *Maryland v. Macon*, 472 U.S. 463 (1985).

1 Finally, equitable relief is not available under the claims asserted in the First Amended Complaint.
2 *Ruckelshaus, supra*, 467 U.S. at 1016.

3 2. Because the record presented with the motion reflects that Plaintiffs' claims cannot be
4 cured by amendment, San Francisco's motion is granted WITHOUT leave to amend.

5 Dated: _____
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8 Honorable Richard Seeborg
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